

Remarks

This Application has been carefully reviewed in light of the final Office Action mailed October 2, 2002. Applicants believe all claims are allowable over the prior art of record without amendment, and respectfully submit these remarks in support of such allowability. Applicants respectfully request reconsideration and full allowance of all pending claims.

Drawings

In Applicants' Response to the April 11, 2002 Office Action, Applicants amended FIGURES 1 and 8. In the final Office Action, no objection to the drawings was made. Accordingly, Applicants are submitting, in conjunction with this response, formal copies of amended FIGURES 1 and 8 to the Official Draftsperson for acceptance.

Information Disclosure Statement

Applicants mailed an Information Disclosure Statement (IDS) and associated PTO-1449 form on August 24, 2000. The PTO received the IDS on August 29, 2001. Applicants noted in Response to the April 11, 2002 Office Action that the Examiner had not indicated consideration of the references listed on the PTO-1449 form. Copies of the IDS and associated PTO-1449 form, references, and postcard were attached for the Examiner's convenience. Applicants again note that the Examiner did not indicate consideration of the references listed on the PTO-1449 form in the October 2, 2002 final Office Action. Applicants respectfully request the Examiner to indicate consideration of the references listed on the PTO-1449 form by initialing next to each reference on the PTO-1449 form.

Applicants' Claims are Allowable Over Huang

The Examiner rejects Claims 1-2, 4, 6-10, 12-18, 20-26, 28, 30-34, 36-41, and 43-47 under 35 U.S.C. § 102(e) as being as being anticipated by U.S. Patent 5,953,707 to Huang, et al. ("*Huang*"). Applicants respectfully disagree.

Independent Claims 1 and 25

At a minimum, *Huang* does not disclose, teach, or suggest "*a presentation interface operable to generate a first visual display for selected planning information, the first visual*

display comprising a cashflow report providing a net present value for one or more products in the supply chain, each net present value reflecting revenues and expenses associated with a corresponding product according to time periods in which the revenues and expenses occur" as specifically recited in Claim 1.

The Examiner acknowledges that all limitations recited in Applicants' Claim 1 are not disclosed in *Huang*. Therefore, the Examiner's 35 U.S.C. § 102(e) rejection is improper. For example, the Examiner states that "the calculation of a product's net present value is a calculation commonly used in supply chain management systems when performing corporate valuations" and that "[t]herefore, it is *very likely* a function or routine to calculate a product's net present value would be contained within the library of routines taught by Huang." (Office Action, Page 2) (emphasis added) This is insufficient for anticipation under 35 U.S.C. § 102(e). For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or inherently.¹ Any feature not explicitly taught must be inherently present. M.P.E.P. § 706.02. Thus, even assuming for the sake of argument that it would be "very likely" that *Huang* teaches a function or routine to calculate a product's net present value (with which Applicants in no way agree), *Huang* still would not properly anticipate the invention recited in Applicants' Claim 1. Furthermore, "the identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)). Applicants respectfully request that the rejection be withdrawn.

Additionally, Applicants respectfully submit that the Examiner has not shown the required motivation in *Huang* or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to modify *Huang* in the manner the Examiner proposes. Although Applicants do not necessarily agree that the proposed modifications to the system disclosed in *Huang* are even possible, the mere fact that a reference *can* be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. See M.P.E.P. § 2143.01. Nothing in *Huang*, any other cited reference, or the knowledge generally available to one of ordinary skill in the art at the time of the

¹ M.P.E.P. § 706.02. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131.

invention suggests or motivates the proposed modifications to *Huang*, nor has the Examiner provided evidence that suggests or motivates the various proposed modifications to *Huang*.²

As the Examiner indicates, *Huang* merely discloses a system of integrating product, sales, and inventory information into a *feasible replenishment plan*. (Office Action, Page 18) (emphasis added) The Examiner continues:

In order for the system to integrate all these factors into a single supply chain management plan, the planning subsystem (planning engine) must access and communicate with the overall enterprise model to create a *feasible plan* *Huang* teaches a "library of *models and routines* that are logically linked, regularly updated and maintained. To support the PSI planning process for example, one can then *employ an appropriate subset of models and routines from the library to represent the underlying supply chain abstraction and provide decision support*. The present invention assembles the models and routines in a flexible manner, as needed by a decision making environment, to enable the DSS 10 to provide customized decision support with a readily upgradable and scalable library.

(Office Action, Page 2) (emphasis added and citations omitted). The Examiner then states that the calculation of a product's net present value is a calculation commonly used in supply chain management systems when performing *corporate valuations* and that, therefore, it is very likely a function or routine to calculate a product's net present value would be contained within the library of routines taught by *Huang*. (Office Action, Page 2) (emphasis added) Applicants respectfully disagree.

The models and routines disclosed in *Huang* merely represent the underlying supply chain abstraction and provide decision support for the *feasible replenishment plan* disclosed in *Huang*. Claim 1 does not even mention a feasible replenishment plan, which is the subject of *Huang*. Furthermore, nowhere does *Huang* even allude to "*net present value*," much less "*a cashflow report*" providing net present value information as recited in Claim 1. Whether

² If "common knowledge" or "well known" art is being relied on to modify the reference, or if Official Notice is being taken, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on to supply the required motivation or suggestion to combine, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

or not calculating a product's net present value is commonly done in supply chain management systems when performing *corporate valuations*, as the Examiner states, *Huang* still fails to disclose, teach, or suggest a *"first visual display comprising a cashflow report providing a net present value for one or more products in the supply chain, each net present value reflecting revenues and expenses associated with a corresponding product according to time periods in which the revenues and expenses occur"* as recited in Claim 1. In fact, contrary to the Examiner's statement that "it is very likely a function or routine to calculate a product's net present value would be contained within the library of routines taught by Huang," Applicants submit that it is highly unlikely such a function or routine would be used in the system of *Huang* since there is no apparent reason to calculate a product's net present value in the context of providing decision support for a feasible replenishment plan.

For at least these reasons, *Huang* fails to disclose, teach, or suggest the limitations recited in Claim 1, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of the invention. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1, together with all claims that depend on Claim 1.

Independent Claim 25 recites substantially similar limitations to those recited in Claim 1. Thus, for at least the same reasons discussed above with respect to Claim 1, *Huang* fails to disclose, teach, or suggest the limitations of Claim 25. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 25, together with all claims that depend on Claim 25.

Independent Claims 8 and 32

In addition to reciting certain limitations similar to those recited in Claim 1, independent Claim 8 of the present application recites certain other limitations. At a minimum, *Huang* fails to disclose, teach, or suggest *"a presentation interface operable to generate a first visual display for selected planning information, the first visual display comprising a profit margin report that indicates, for one or more products associated with a specified resource, a profit margin for each time interval the resource is in use"* as specifically recited in Claim 8.

The Examiner indicates that *Huang* teaches "the analysis and synthesis of data to compute/display (tables and graphs), characterize and analyze sales history per product/product group or customer/customer group (see the MDA Module specification discussion for details of models and formulas): Volatility of demand, Lumpiness of demand, Trends in demand history, Demand pattern changes, and Seasonality. Compute, display (tables and graphs) and analyze sales history statistics for different levels of aggregation: This year vs. last year, Actual sales vs. budget, and Year to date vs. balance of Year." (Office Action, Page 3) The Examiner further states that "[p]ast and future sales data is used extensively in corporate planning." (Office Action, Page 3) Applicants respectfully reiterate the requirements to support anticipation under 35 U.S.C. § 102(e) discussed above. Whether or not "[p]ast and future sales data is used extensively in corporate planning" as the Examiner states, nowhere does *Huang* even allude to "*profit margin*," much less "*a profit margin report*" as recited in Claim 8. *Huang* certainly does not disclose, teach, or suggest "*a presentation interface operable to generate a first visual display for selected planning information, the first visual display comprising a profit margin report that indicates, for one or more products associated with a specified resource, a profit margin for each time interval the resource is in use*" as recited in Claim 8.

Additionally, Applicants respectfully submit that the Examiner has not shown the required motivation in *Huang* or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to modify *Huang* in the manner the Examiner proposes. Although Applicants do not necessarily agree that the proposed modifications to the system disclosed in *Huang* are even possible, the mere fact that a reference *can* be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. See M.P.E.P. § 2143.01. Nothing in *Huang*, any other cited reference, or the knowledge generally available to one of ordinary skill in the art at the time of the invention suggests or motivates the proposed modifications to *Huang*, nor has the Examiner provided evidence that suggests or motivates the various proposed modifications to *Huang*.³

³ If "common knowledge" or "well known" art is being relied on to modify the reference, or if Official Notice is being taken, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on to supply the required motivation or suggestion to combine, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

For at least these reasons, and others recited above with reference to Claim 1, *Huang* fails to disclose, teach, or suggest the limitations recited in Claim 8, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of the invention. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 8, together with all claims that depend on Claim 8.

Independent Claim 32 recites substantially similar limitations to those recited in Claim 8. Thus, for at least the same reasons discussed above with respect to Claim 8, *Huang* fails to disclose, teach, or suggest the limitations of Claim 32. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 32, together with all claims that depend on Claim 32.

Independent Claims 14 and 38

In addition to reciting certain limitations similar to those present in Claim 1, independent Claim 14 of the present application recites:

a presentation interface operable to generate a first visual display for selected planning information, the first visual display comprising a report that indicates, for one or more products in the supply chain, a forecasted demand and a number of units allocated for production;

the report including a bar graph comprising:

a first axis scaled in terms of numbers of units;

a bar, associated with a product in the supply chain, extending from a second axis to a height corresponding to a first position on the first axis, the first position indicating a number of units of the product that could be sold according to customer demand; and

a marker on the bar corresponding to a second position on the first axis, the second position indicating a number of units of the product allocated for production.

Huang does not disclose, teach, or suggest the combination of limitations specifically recited in Applicants' Claim 14, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of invention.

The Examiner states that *Huang* teaches "[s]everal analysis tools are available: Trend, Moving average, Pattern changes, Pareto analysis, and correlation between products. The output of these analyses can be displayed in table or in graph." (Office Action, Page 3) The Examiner also states that "supply and demand type graph described by the applicant is well known in the art of economics and is used extensively when performing market analysis." (Office Action, Page 4) Applicants respectfully traverse. *Huang* at the very minimum does not teach a bar graph including *"a first axis scaled in terms of numbers of units," "a bar, associated with a product in the supply chain, extending from a second axis to a height corresponding to a first position on the first axis, the first position indicating a number of units of the product that could be sold according to customer demand," and "a marker on the bar corresponding to a second position on the first axis, the second position indicating a number of units of the product allocated for production"* as specifically recited in Claim 14.

Furthermore, the limitations specifically recited in Claim 14 recite more than just "supply and demand type graph[s]" as suggested by the Examiner. For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or inherently.⁴ Any feature not explicitly taught must be inherently present. M.P.E.P. § 706.02. Thus, even if "supply and demand type graphs are well known in the art of economics and [are] used extensively when performing market analysis" as suggested by the Examiner (with which Applicants in no way agree), *Huang* still does not anticipate Applicants' claimed invention. Furthermore, "the identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The Examiner's claim that "the supply and demand type graph . . . is well known in the art of economics" is insufficient.

Additionally, Applicants respectfully submit that the Examiner has not shown the required motivation in *Huang* or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to modify *Huang* in the manner the Examiner proposes. Although Applicants do not necessarily agree that the proposed modifications to the system disclosed in *Huang* are even possible, the mere fact that a reference *can* be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of

the modification. *See* M.P.E.P. § 2143.01. Nothing in *Huang*, any other cited reference, or the knowledge generally available to one of ordinary skill in the art at the time of the invention suggests or motivates the proposed modifications to *Huang*, nor has the Examiner provided evidence that suggests or motivates the various proposed modifications to *Huang*.⁵

For at least these reasons, and others stated above with reference to Claim 1, *Huang* fails to disclose, teach, or suggest the limitations recited in Claim 14, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of the invention. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 14, together with all claims that depend on Claim 14.

Independent Claim 38 recites substantially similar limitations to those recited in Claim 14. Thus, for at least the same reasons discussed above with respect to Claim 14, *Huang* fails to disclose, teach, or suggest the limitations of Claim 38. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 38, together with all claims that depend on Claim 38.

Independent Claims 22 and 45

In addition to reciting certain limitations similar to those present in Claim 1, independent Claim 22 of the present application recites:

a presentation interface operable to generate a first visual display for selected planning information, the first visual display comprising a plant distribution report that includes a bottom panel comprising:

*a first axis specifying a plurality of locations;
a second axis specifying profit margins per hour;*

and

⁴ M.P.E.P. § 706.02. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131.

⁵ If "common knowledge" or "well known" art is being relied on to modify the reference, or if Official Notice is being taken, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on to supply the required motivation or suggestion to combine, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

a plurality of icons representing resources in the supply chain, each icon positioned relative to the first axis to indicate a location associated with a corresponding resource and relative to the second axis to indicate a profit margin per hour associated with the corresponding resource.

Huang does not disclose, teach, or suggest the combination of limitations specifically recited in Applicants' Claim 22, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of invention.

The Examiner states that *Huang* teaches "a mechanism that unifies the user dialog and display, the models and analysis routines, and data in a manner that is consistent to support the underlying supply chain abstraction of the user." (Office Action, Page 4) The Examiner also states, "In summary, Huang teaches a reporting mechanism that combines the data calculated from a system's routines into a visual display for analysis. This is the exact same concept described by the applicant where a plurality of select locations (selected locations is generated by a routine) is plotted against the profit margins per hour (a calculated routine)." (Office Action, Page 4) Applicants respectfully traverse. *Huang* at the very minimum does not teach a "plant distribution report" including "a first axis specifying a plurality of locations," "a second axis specifying profit margins per hour," and "a plurality of icons representing resources in the supply chain, each icon positioned relative to the first axis to indicate a location associated with a corresponding resource and relative to the second axis to indicate a profit margin per hour associated with the corresponding resource" as specifically recited in Claim 22.

Furthermore, the limitations specifically recited in Claim 22 recite more than just "a plurality of select locations (selected locations is generated by a routine) [being] plotted against the profit margins per hour (a calculated routine)" as suggested by the Examiner. For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or inherently.⁶ Any feature not explicitly taught must be inherently present. M.P.E.P. § 706.02. Thus, even if "supply and demand type graphs are well known in

⁶ M.P.E.P. § 706.02. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131.

the art of economics and [are] used extensively when performing market analysis" as suggested by the Examiner (with which Applicants in no way agree), *Huang* still does not anticipate Applicants' claimed invention. Furthermore, "the identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The Examiner's claim that "the supply and demand type graph . . . is well known in the art of economics" is insufficient.

Additionally, Applicants respectfully submit that the Examiner has not shown the required motivation in *Huang* or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to modify *Huang* in the manner the Examiner proposes. Although Applicants do not necessarily agree that the proposed modifications to the system disclosed in *Huang* are even possible, the mere fact that a reference *can* be modified does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. See M.P.E.P. § 2143.01. Nothing in *Huang*, any other cited reference, or the knowledge generally available to one of ordinary skill in the art at the time of the invention suggests or motivates the proposed modifications to *Huang*, nor has the Examiner provided evidence that suggests or motivates the various proposed modifications to *Huang*.⁷

For at least these reasons, and others stated above with reference to Claim 1, *Huang* fails to disclose, teach, or suggest the limitations recited in Claim 22, whether *Huang* is considered alone or in combination with any other reference of record or with knowledge of one skilled in the art at the time of the invention. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 22, together with all claims that depend on Claim 22.

Independent Claim 45 recites substantially similar limitations to those recited in Claim 22. Thus, for at least the same reasons discussed above with respect to Claim 22, *Huang* fails to disclose, teach, or suggest the limitations of Claim 45. Accordingly,

⁷ If "common knowledge" or "well known" art is being relied on to modify the reference, or if Official Notice is being taken, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on to supply the required motivation or suggestion to combine, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

Applicants respectfully request reconsideration and allowance of Claim 45, together with all claims that depend on Claim 45.

Dependent Claims

In addition to being dependent on Claims 1, 8, 14, 22, 25, 32, 38, and 45, which Applicants have shown to be allowable, Claims 2-7 (which depend from Claim 1), Claims 9-13 (which depend from Claim 8), Claims 15-21 (which depend from Claim 14), Claims 23-24 (which depend from Claim 22), Claims 26-31 (which depend from Claim 25), Claims 33-37 (which depend from Claim 32), Claims 39-44 (which depend from Claim 38), and Claims 46-47 (which depend from Claim 45) recite further patentable distinctions over the prior art of record. Applicants discussed at least certain of these patentable distinctions in the Response to the April 11, 2002 Office Action. Applicants reiterate those arguments, including those made in response to the Examiner's attempts to combine *Huang* with other references. To avoid burdening the record and in view of the allowability of Claims 1, 8, 14, 22, 25, 32, 38, and 45, Applicants have not specifically discussed in this Response the reasons each dependent claim is allowable.

Conclusion

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Christopher W. Kennerly, Attorney for Applicants, at the Examiner's convenience at (214) 953-6812.

Applicants believe that no fees are due. Nonetheless, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



Christopher W. Kennerly
Reg. No. 40,675

Correspondence Address:

Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980
(214) 953-6812

Date: 12/2/02